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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/718,210	11/20/2003	Parijat Dube	YOR920030423US1	9022		
7590	03/03/2008	Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560	EXAMINER PARKER, BRANDI P			
ART UNIT 4137		PAPER NUMBER				
MAIL DATE 03/03/2008		DELIVERY MODE PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,210	DUBE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BRANDI PARKER	4137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11/20/2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>3/1/2004</u> .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### Acknowledgements

1. Claims 1-19 are pending in this Office Action
2. This Office Action is given Paper No. 20080219 for reference purposes only.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 6085169) in view of Miller et al (US 5640.569).

3. With respect to **claims 1, 13, 14 and 18**, Walker teaches an article of manufacture, a method and providing a service of a management system, the method comprising the steps of:
  - a. obtaining data associated with at least one potential demand for use of the one or more resources (column 3, lines 60-64); and
  - b. generating a management model in accordance with at least a portion of the obtained data, wherein the management model is operative to determine an

allocation of the one or more resources based on combinations of price levels and service levels that may be offered to one or more users of the one or more resources so as to attempt to satisfy at least one management goal (column 2, lines 46-65).

c. wherein the one or more resources are associated with an electronic utility (column/line 2/66-3/9).

Walker does not teach with respect to computing resources. However, Miller teaches a method for allocating available computer resources (abstract). It would have been obvious to one having ordinary skill in the art to modify Walker with the disclosure in Miller because computer resources because computer resources are allocated through a management system.

4. Regarding **claim 2**, Walker teaches the method of claim 1, wherein the management model generating step further comprises determining the allocation also based on at least one of historical data and predicted data associated with a demand pattern (column 2, lines 52-56).

5. As to **claim 3**, Walker teaches the method of claim 1, wherein the management model generating step further comprises determining the allocation also based on at least one of historical data and predicted data associated with a resource usage level (column 23, lines 25-40).

6. With respect to **claims 4-5 and 7-8**, Walker teaches
  - d. the method of claim 1, wherein the management model generating step further comprises representing the at least one potential demand as one of a demand curve and a discrete choice model (Figure 5c);
  - e. the method of claim 1, wherein the management model generating step further comprises aggregating at least one of historical data and predicted data associated with a resource usage level (column 13, lines 26-39; Figure 5c);
  - f. the method of claim 6, wherein the setting step is based on at least one of current data and predicted data (column 24, lines 30-33, lines 45-48); and
  - g. the method of claim 6, wherein the at least one of current data and predicted data comprises at least one of demand data and resource data (column 23, lines 25-40).
7. Regarding **claim 6**, Walker teaches the method of claim 1, wherein the management model generating step further comprises setting price levels and service levels to be offered to users (column/line 12/66-13/3).
8. As to **claims 9 and 10**, Walker teaches:
  - h. the method of claim 6, wherein the setting step is also based on price-service-level combinations (column 5, line 53-63); and

- i. the method of claim 9, wherein the management model generating step further comprises evaluating a revenue value for each price-service-level combination (column 5, line 53-63).

Regarding claim 9, Walker does not teach a maximum price level of combinations. On the other hand, Walker et al. does teach setting price and service levels based on current inventory, pricing and revenue information (column 4, lines 53-63). Therefore, as a maximum price level of combination is at least pricing information, the claim is at least a predicted result (KSR) of the teachings of Walker et al. (column 4, lines 53-63).

9. Regarding **claim 12**, Walker teaches the method of claim 1, wherein the management goal is at least one of: (i) achieving a revenue goal; (ii) increasing a market share; (iii) responding to a competitor; and (iv) smoothing a demand pattern (column 13, lines 42-59).

10. With respect to **claim 15 and 16**, Walker teaches the method of claim 1,

- j. a yield management model (column 2, lines 56-59).
- k. a revenue management model (column 2, lines 52-56).

As to **claim 17**, Walker teaches

- l. a memory (Figure 2); and
- m. at least one processor coupled to the memory (Figure 2).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and Miller as applied to claim 1 above, and further in view of Baseman et al (US 6671673).

11. With respect to **claim 11**, Walker does not explicitly teach the management resource model using one of a linear programming solver and a nonlinear programming solver. However, Baseman et al teaches solving the management resource model using one of a linear programming solver and a nonlinear programming solver (column/line 22/31-23/4). It would have been obvious to one having ordinary skill in the art to modify Walker with the solving techniques provided in Baseman because it allows for solving with multiple constraints and variables for increased efficiency.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hornick et al (US 5255184) and Talluri (US 6263315).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI PARKER whose telephone number is (571)272-9796. The examiner can normally be reached on Mon-Thur. 8-4pm.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRANDI PARKER/  
Examiner, Art Unit 4137

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 4137